

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(NORTHERN DIVISION)**

ADVANCED EDUCATION SYSTEMS, LLC
d/b/a TrainingPro®
11350 McCormick Road
Suite 1001
Hunt Valley, Maryland 21031

Plaintiff,

v.

MTI SERVICES CORPORATION
d/b/a MORTGAGE TRAINING INSTITUTE
4155 E. Jewell Avenue
Suite 104
Denver, Colorado 80222

Serve On:

Jonathan M. Exley
4155 E. Jewell Avenue
Suite 310
Denver, Colorado 80222

Defendant.

Civil Action No.:

COMPLAINT

Plaintiff Advanced Education Systems, LLC, d/b/a TrainingPro® (hereafter “TrainingPro”), by and through its undersigned counsel, hereby files this Complaint against MTI Services Corporation, d/b/a Mortgage Training Institute (hereafter “MTI”) for copyright infringement and alleges as follows:

JURISDICTION AND VENUE

1. This Court has original jurisdiction over the subject matter of this action pursuant to: 28 U.S.C. §1331 because this Action arises pursuant to the following laws of the United States: 17 U.S.C. §§101 *et seq.*, and 28 U.S.C. §1338.

2. This Court has personal jurisdiction over Defendant MTI in Maryland pursuant to Md. Code. Ann., Cts. & Jud. Proc. §6-103(b)(1), (b)(2), (b)(3), and (b)(4) because the Defendant, on information and belief: transacts business and/or performs work or services in Maryland; contracts to supply goods, services or manufactured products in Maryland; has caused tortious injury in Maryland by an act or omission in this State; and has caused tortious injury in Maryland by an act or omission outside of this State, but Defendant transacts business and/or performs services in this State, regularly does or solicits business in this State, engages in a persistent course of conduct in this State and derives substantial revenue from goods, services or manufactured products used or consumed in this State.

3. This Court is a proper venue for this action pursuant to 28 U.S.C. § 1391(b) because this action is not founded solely on diversity of citizenship, a substantial part of the property that is the subject of the action is situated in this State, and because MTI, by virtue of being subject to personal jurisdiction in Maryland, is also deemed to reside in this State. *See* 28 U.S.C. § 1391(c). Venue for this action is also proper under 28 U.S.C. § 1400 (a) because it arises under the Copyright Act, 17 U.S.C. §§ 101, *et seq.*, and the Defendant can be found in this jurisdiction within the meaning of 28 U.S.C. § 1400 (a).

THE PARTIES

4. TrainingPro is a limited liability company with its principal place of business in Baltimore County, Maryland. Among other things, TrainingPro is a national leader in mortgage education and training for loan officers, mortgage brokers in small and large companies, and state associations, to name a few. TrainingPro is in the business of developing course materials and questions for its mortgage licensing education and training course programs and exam preparation services.

5. Upon information and belief, Defendant MTI is a corporation providing mortgage industry training and offering live classes in various cities throughout the nation, including Columbia, Maryland. Defendant and TrainingPro are direct competitors.

ALLEGATIONS OF FACT

6. TrainingPro offers a comprehensive suite of educational programs and services that give professionals nationwide the tools they need to excel in the mortgage industry.

7. Among other things, TrainingPro's services include a mortgage licensing exam preparation course to prepare mortgage loan originators ("MLOs") to take the Secure and Fair Enforcement ("SAFE") Mortgage Loan Originator Exam. TrainingPro also provides pre-licensure courses, and continuing education and training course programs for MLOs pursuant to the requirements described in the SAFE Mortgage Licensing Act.

8. The SAFE Mortgage Licensing Act is a major component of the Housing and Economic Recovery Act (HERA) (Pub.L. 110-289, 122 Stat. 2654) that became law in 2008 (together hereinafter, the "SAFE Act"). The SAFE Act sets forth federal and state licensing requirements and accreditations needed for mortgage loan originators and it establishes licensing standards for state licensed MLOs, with the goal of increasing consumer protection and decreasing fraud.

9. Pursuant to the SAFE Act, state-licensed MLOs are required to pass a written qualified test, complete pre-licensure education courses, and take annual continuing education courses covering the following four subjects: (1) General Mortgage Knowledge; (2) Federal Mortgage Related Laws; (3) Mortgage Loan Origination Activities; and (4) Ethics. An MLO must comply with the licensing requirements set forth in the SAFE Act, failing to do so will subject an MLO to State penalties.

10. Also pursuant to the SAFE Act, MLOs are required to be registered with the Nationwide Mortgage Licensing System (“NMLS”) and the NMLS Registry, which is a database to support the licensing of MLOs. In addition, education providers that seek to provide Safe Act education and training courses must also be approved through NMLS.

11. TrainingPro is an approved NMLS Education Provider.

12. Upon information and belief, MTI is also an approved NMLS Education Provider.

13. TrainingPro has created and authored mortgage licensing course materials and exams which it incorporates into its exam preparation program to prepare students to take the SAFE Mortgage Loan Originator Exam and meet the licensing requirements under the SAFE Act.

14. In fact, TrainingPro has a full-time curriculum writer on its staff whose job is to create questions for its preparatory courses.

15. Specifically, TrainingPro has created and authored several practice exams, each consisting of about 190 questions covering the same four subject areas required under the SAFE Act and tested on the SAFE Mortgage Loan Originator Exam (“Mortgage Exams”).

16. TrainingPro owns United States copyright registrations with respect to three of its four Mortgage Exams, and the fourth is the subject of a properly-filed copyright registration application.

17. TrainingPro is, and at all relevant times has been the sole and exclusive, legal and beneficial owner of copyrights in its Mortgage Exams.

18. TrainingPro’s Mortgage Exams are fixed in a tangible medium of expression and constitute an original work of authorship.

19. TrainingPro's Mortgage Exams are available only to students who purchases TrainingPro's mortgage licensing exam preparation course.

20. MTI provides Safe Act licensing exam preparation course materials and exams that are in direct competition with TrainingPro's courses.

21. MTI's course materials and mortgage licensing exams are available to its customers via the MTI website and customers can download MTI's mortgage licensing exams over the internet.

22. Upon information and belief, MTI has and continues to reproduce the TrainingPro's Mortgage Exams, prepare derivative works based on the Mortgage Exams, and distribute copies of the Mortgage Exams, without any permission, right or authority to do so.

23. Many of the Mortgage Exam questions that MTI is using are either verbatim or are substantially similar to exam questions in the TrainingPro Mortgage Exams.

24. MTI has derived, and will derive in the future, revenue from the reproduction, preparation of derivative works, and/or distribution of the TrainingPro Mortgage Exam questions.

25. TrainingPro is likely to suffer irreparable harm from Defendant's infringement of TrainingPro's copyrighted works, including but not limited to diverted sales.

COUNT I
COPYRIGHT INFRINGEMENT
(17 U.S.C. § 501 *et seq.*)

26. Plaintiff TrainingPro incorporates by reference paragraphs 1 through 25 as if set forth in full herein.

27. TrainingPro owns three copyrights with respect to the original works of authorship that comprise the components of its Mortgage Exams. These copyright registrations

are: (1) TrainingPro Ethics Practice Test, Reg. No. TX0007115475; (2) TrainingPro General Mortgage Knowledge Practice Test, Reg. No. TX0007115622; and (3) Training Pro Loan Origination Activities Practice Test, Reg. No. TX0007115481. In addition, TrainingPro has applied for an additional copyright and the United States Copyright Office has accepted such copyright application for the TrainingPro Federal Mortgage Related Laws Practice Test and is identified as Case No./Service Request No. 1-365240481. TrainingPro is the exclusive legal and beneficial owner of the copyrighted works that comprise the Mortgage Exams and questions, which are works protected under the United States Copyright Act, 17 U.S.C. § 101, *et seq.* the (“Copyright Act”).

28. By its conduct as alleged herein, Defendant has unlawfully copied and reproduced the Mortgage Exams and/or certain Mortgage Exam questions, prepared derivative works based on the Mortgage Exams, and/or has distributed copies of certain Mortgage Exam questions by sale, without any license, right, permission or entitlement to do so, in violation of TrainingPro’s exclusive rights provided by Sections 106 through 122 of the Copyright Act.

29. The above-described acts by Defendant were performed for its own benefit and with full knowledge that it had no license, right, permission or entitlement to use, sell or otherwise license TrainingPro’s Mortgage Exams or Mortgage Exam questions.

30. Defendants’ activities described above constitute an infringement of TrainingPro’s copyrights in the Mortgage Exams.

31. The foregoing acts of infringement by Defendants have been willful, intentional, and purposeful, in disregard of and with indifference to TrainingPro’s rights.

32. Defendants’ conduct is causing and, unless enjoined and restrained by this Court, will continue to cause TrainingPro great and irreparable injury that cannot fully be compensated

or measured in money, and for which TrainingPro has no adequate remedy at law.

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in favor of Plaintiffs and issue an Order against Defendants awarding the following relief to TrainingPro:

- A. Pursuant to 17 U.S.C. § 502, a permanent injunction on terms that the Court deems reasonable to prevent or restrain future infringement of the TrainingPro's copyright rights;
- B. Pursuant to 17 U.S.C. § 503, Impoundment and destruction or other reasonable disposition of all copies and all derivative works of the TrainingPro in Defendants' possession, custody or control;
- C. Pursuant to 17 U.S.C. § 504, actual damages suffered by TrainingPro as a result of Defendants' infringement, and any profits of Defendants' that are attributable to the infringement and are not taken into account in computing the actual damages;
- D. Awarding, as an alternative to actual damages and profits, at TrainingPro's election at any time before final judgment is entered, statutory damages pursuant to 17 U.S.C. § 504(c)(1) with respect to each of the protected works infringed, or such other amounts as may be proper under 17 U.S.C. § 504(c)(1); and
- E. Prejudgment and post judgment interest, plus any other award that the Court deems appropriate.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a jury trial on all issues so triable.

Dated: May 14, 2010

Respectfully submitted,

/s/
Joshua A. Glikin (#26852)
glikin@bowie-jensen.com
BOWIE & JENSEN, LLC
29 W. Susquehanna Avenue
Suite 600
Towson, Maryland 21204
(410) 583-2400
(410) 583-2437 (facsimile)

*Counsel for Plaintiff,
Advanced Education Systems
d/b/a TrainingPro®*